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April 18, 2005

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APR 18 2005

VIA HAND DELIVERY

Ms. Marlene H. Dortch, Esq.
Secretary
Federal Communications Commission
Portals II - 12th Street Lobby
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445 12th Street, SW
Washington, D.C. 20554

Federal Communications Commission
Office of Secretary

Re: Erratum
MD Docket No. _____
RM - _____
(The Dalles, Tualatin, Eugene, Albany,
Lebanon, Paisley and Diamond Lake,
Oregon and Goldendale, Washington)

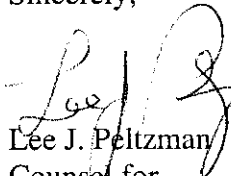
Dear Ms. Dortch:

Transmitted herewith, on behalf of Portland Broadcasting, LLC, Columbia Gorge Broadcasters, Inc., M.S.W. Communications, LLC and Extra Mile Media, Inc., is an original and four (4) copies of their Erratum with respect to the Petition for Rule Making filed on March 21, 2005. Please contact undersigned counsel in the event the Commission has any questions with respect to this filing.

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Sincerely,



Lee J. Peltzman
Counsel for
PORTLAND BROADCASTING, LLC

Enclosure

**Before The
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

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APR 18 2005

**Federal Communications Commission
Office of Secretary**

In the Matter of)
)
Amendment of Section 73.202(b))
Table of Allotments)
FM Broadcast Station)
(The Dalles, Tualatin, Eugene, Albany,)
Lebanon, Paisley, Diamond Lake, Oregon)
and Goldendale, Washington))

MB Docket No. _____
RM - _____

To: Office of the Secretary
Assistant Chief, Audio Division
Media Bureau

ERRATUM

Portland Broadcasting, LLC, Columbia Gorge Broadcasters, Inc., M.S.W.

Communications, LLC and Extra Mile Media, Inc. (the "Joint Petitioners"), by their respective counsel, hereby file this Erratum to the Petition for Rule Making filed on March 21, 2005, in this rule making proceeding. The following changes are hereby made.

1. On the title page, "Richard P. Zaragoza" is corrected to state "Richard R. Zaragoza." In addition, "Shaw Pittman, LLP" is corrected to read "Shaw Pittman LLP".
2. In the Table of Contents, Section I is corrected to read "PRELIMINARY MATTERS." Section II A is corrected to read "STATION KACI-FM, CHANNEL 249C2, THE DALLES, OREGON." Section II E is corrected to read "STATION KXPC-FM, CHANNEL 279C, LEBANON, OREGON." Section II E 3 is corrected to read II E 2. Section II F is corrected to read "STATION KMSW(FM), CHANNEL 224C3, THE DALLES, OREGON."
3. Page 1, fifth line, the words "by their respected counsel" are corrected to read "by their respective counsel."

4. Page 2, paragraph 1, line 1 the word “licensee” is corrected to read “license.”
Also, semicolons replace commas after the words “Paisley, Oregon”, “Tualatin, Oregon” and “The Dalles.”
5. Page 3, paragraph 3, fourth line, the call sign “KCYS” is replaced by “KACI-FM.”
6. Page 4, paragraph 4, third line, the call sign “KACI-FM” is replaced by “KACI.”
7. Page 4, paragraph 5, after the citation *Ada, Newcastle and Watonga, Oklahoma*, 11 FCC Rcd 16896, 16899 (1996), a semicolon replaces the period.
8. Page 5, subparagraph (1), the word “*Portland*” is replaced by the word “*Tualatin*” in the title. After *Albemarle and Indian Trail, North Carolina*, 16 FCC Rcd 13876 (2001) a semicolon replaces the coma.
9. Page 5, at subparagraph (2), the second sentence should read “Local businesses advertise in the newspaper, which contains news and information of special interest to the residents of Tualatin.”
10. Page 7, at subparagraph (5), the words “*South Jordan*” is replaced by the word “*Tualatin*” in the title.
11. Page 7, at subparagraph (6), the word “*heath*” is replaced by the word “*health*” in the title. Also, at the top of page 9, “Concerts and the Commons” should read “Concerts on the Commons.”
12. Page 9, at subparagraph (7), the first word in line one, “Business”, should instead read “Businesses.” At the third lien, the term “City Newsletter” should read “City newsletter.”
13. Page 10, at subparagraph (8), in the last line, “Durham Senior City” should read “Durham Senior Center.”

14. Page 10, at paragraph 6, the first sentence should read, “The City of Tualatin is currently independent of Portland and deserves its first local service.”

15. Page 11, Section II E should read “STATION KXPC-FM, CHANNEL 279C, LEBANON TO PAISLEY, OREGON.”

16. Page 12, at paragraph 12, the word “forth” should read “fourth.”

17. Page 13, at paragraph 14, “Freemont National Forest” should read “Fremont National Forest.” Also, “Exhibit 17” should read “Exhibit 16.”

18. Page 13, Section II F should read “STATION KMSW(FM), CHANNEL 224C3, THE DALLES, OREGON.” At the first and third lines of paragraph 17 “KSMW” should read “KMSW.” Also, at the fourth line “Channel 279C2” should read “Channel 272C2.”

19. Page 14, paragraph 18, sixth line, after the words “Albany, Oregon”, “See Figure 16” should be added.

20. Page 15, the name “Richard P. Zaragoza” should read “Richard R. Zaragoza.”

21. In the Engineering Statement, at page 1, second line, “KPXC-FM” should read “KXPC-FM.” At the eighth line, “New Community” should read “Tualatin.” On page 2 under “Joint Parties’ Petition Modifications Explained” the second line should read as follows: “As a result of a sub-change required for Channel 250C2 to create clear spacing at Tualatin, Channel 300C2 can be substituted for Channel 272C2 at the KYYT licensed site.” At page 4, the call sign “KPXC-FM” is corrected to read “KXPC-FM.” At page 5, the call sign “KSMW” is corrected to read “KMSW.” At page 8, the first line is corrected to read “No remaining services map is included since no change in community of license is proposed for KHPE.” At page 9, the last sentence in the “CONCLUSION” should read as follows: “The petition does not create any white area or downgrades and can be implemented with a minimum of spectrum interruption.”

22. The Joint Petitioners have provided a redline copy of the Petition for Rule Making showing the above changes as well as a clean copy of the Petition for Rule Making with the changes incorporated. They respectfully request that this Erratum be accepted and that the Petition for Rule Making be supplemented to include these corrections.

Respectfully submitted,

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Dated: April 18, 2005

**Before The
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of

Amendment of Section 73.202(b)
Table of Allotments
FM Broadcast Station
(The Dalles, Tualatin, Eugene, Albany,
Lebanon, Paisley, Diamond Lake, Oregon
and Goldendale, Washington)

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MB Docket No. _____
RM - _____

To: Chief, Audio Division
Media Bureau

PETITION FOR RULE MAKING

PORTLAND BROADCASTING, L.L.C.

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Its Counsel

March 21, 2005

SUMMARY

The Joint Petitioners propose to (i) delete Channel 249C2 at The Dalles, Oregon, allot Channel 250C2 to Tualatin, Oregon as that community's first local service, and modify the license of KACI-FM to reflect operation on Channel 250C2 at Tualatin; (ii) change the community of license of Station KXPC-FM from Lebanon to Paisley, Oregon, (iii) substitute Channel 272C2 for Channel 224C3 at The Dalles and modify the license of KMSW to reflect operation on Channel 272C2; and (iv) substitute Channel 279C for 300C at Albany, Oregon and modify the license of KHPE to reflect operation on Channel 279C. To reflect these changes, further changes will be necessary at Eugene, and Diamond Lake, Oregon and Goldendale, Washington as described herein.

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**Before The
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
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Amendment of Section 73.202(b))	MB Docket No. _____
Table of Allotments)	RM - _____
FM Broadcast Station)	
(The Dalles, Tualatin, Eugene, Albany,)	
Lebanon, Paisley, Diamond Lake, Oregon)	
and Goldendale, Washington))	
To: Chief, Audio Division		
Media Bureau		

PETITION FOR RULE MAKING

Portland Broadcasting, LLC ("PB"), licensee of Station KXPC-FM, Lebanon, Oregon, Columbia Gorge Broadcasters, Inc. ("Columbia"), licensee of Station KACI-FM, The Dalles, Oregon, M.S.W. Communications, LLC ("MSW"), licensee of Station KMSW(FM), The Dalles, Oregon and Extra Mile Media, Inc. ("Extra Mile"), licensee of Station KHPE(FM), Albany, Oregon (together, the "Joint Petitioners"), by their ~~respected~~respective counsel and pursuant to Section 1.401 of the Commission's rules, hereby request that the Commission amend the FM Table of Allotments to (i) delete Channel 249C2 at The Dalles, Oregon, allot Channel 250C2 to Tualatin, Oregon as that community's first local service, and modify the license of KACI-FM to reflect operation on Channel 250C2 at Tualatin; (ii) change the community of license of Station KXPC-FM from Lebanon to Paisley, Oregon, (iii) substitute Channel 272C2 for Channel 224C3 at The Dalles and modify the license of KMSW to reflect operation on Channel 272C2; and (iv) substitute Channel 279C for 300C at Albany, Oregon and modify the license of KHPE to reflect

operation on Channel 279C. To reflect these changes, further changes will be necessary at Eugene, and Diamond Lake, Oregon and Goldendale, Washington as described herein.

I. PRELIMINARY MATTERS

1. It will be necessary that the licensee license of Station KNRQ-FM, Eugene, Oregon be modified to reflect the substitution of Channel 300C for Channel 250C at its licensed site. It will also be necessary that the license of Station KYYT(FM), Goldendale, Washington be modified to reflect the substitution of Channel 300C2 for Channel 272C2 at its licensed site. Orders to show cause to Cumulus Licensing Corp. and Haystack Broadcasting, Inc. will be necessary. PB hereby states that it will reimburse the licensees for their expenses in making the channel changes should the Commission grant this Petition for Rule Making. If the Petition is granted, PB will file an application to re-license KXPC-FM to Paisley, Oregon; Columbia will file an application to modify the license of KACI-FM to specify operation on Channel 250C2 at Tualatin, Oregon; MSW will file an application to modify the license of KMSW to specify operation on Channel 272C2 at The Dalles; and Extra Mile will file an application to modify the license of KHPE to specify operation on Channel 279C. Each of the Joint Petitioners will construct their facilities upon FCC approval of their application.

2. The following table summarizes the changes requested in this Petition:

City	Channel	
	Existing	Proposed
Eugene, Oregon	250C	300C
Albany, Oregon	300C	279C
Goldendale, Washington	272C2	300C2
Tualatin, Oregon	- - -	250C2
The Dalles, Oregon	224C3, 249C2	272C2
Diamond Lake, Oregon	299A	251A
Paisley, Oregon	- - -	279C
Lebanon, Oregon	279C	- - -

II. COMPLIANCE WITH THE COMMISSION'S RULES

A. STATION KACI-FM, CHANNEL 249C2, THE DALLES, OREGON

1. Technical Analysis

3. As demonstrated in the Engineering Statement, Channel 250C2 can be allotted to Tualatin, Oregon consistent with Section 73.207 of the Commission's rules. *See* Exhibit E, Figure 1. A 70 dBu signal can be provided to Tualatin from the proposed reference point. *See* Figure 2. The relocation of ~~KCYS~~ KACI-FM to Tualatin will result in a net gain in population of 1,872,331 persons within the 60 dBu signal from the station. *See* Figure 3. No white or gray area will be created. *See* Figure 4. This is consistent with other reallocations granted by the Commission. *See Detroit Lakes and Barnesville, Minnesota*, 16 FCC Rcd 22581 (2001); *Scappoose and Tillamook, Oregon*, 15 FCC Rcd 10899 (2000); *Earle, Arkansas, et al.*, 10 FCC Rcd 8270 (1995).

2. Change in Community of License

4. Columbia desires to change the community of license of Station KACI-FM, delete Channel 249C2 at The Dalles and allot Channel 250C2 at Tualatin under the guidelines set forth in *Amendment of the Commission Rules Regarding Modification of FM and TV Authorizations to Specify a New Community of License*, 4 FCC Rcd 4870 (1989), *recon. granted in part*, 5 FCC Rcd 7094 (1990) ("*Community of License*"). There, the Commission stated that in order to grant a change in community of license: (1) the proposed use of the channel must be mutually exclusive with its current use; (2) the existing community of license must retain local service; and (3) the proposed arrangement of allotment must be preferred over the existing arrangement under the Commission's allotment priorities. The proposed change in community of license of KACI-FM from The Dalles to Tualatin satisfies these prerequisites. First, the proposed use of

Channel 250C2 at Tualatin is mutually exclusive with the current use of Channel 249C2 at The Dalles. *See* Figure 1. Second, The Dalles will not be deprived of local service since several stations, including KACI-FM, KODL, KMCQ and KMSW, will remain licensed to that community. Third, the Tualatin proposal is preferred under the Commission's priorities since Tualatin would receive a first local service (Priority 3), while retaining Channel 249C2 at The Dalles would only give that community a fifth local service (Priority 4). *See Revision of FM Assignment Policies and Procedures*, 90 FCC 2d 88 (1982).

5. Tualatin is located within the Portland, Oregon Urbanized Area. Therefore, this relocation implicates the Commission's policy concerning the potential migration of stations from underserved rural areas to well-served urban areas. *See Elizabeth City, North Carolina and Chesapeake, Virginia*, 9 FCC Rcd 3586 (1994). In making the determination whether to award an urbanized community a first local service preference, the Commission will consider the extent that station will provide service to the entire Urbanized Area, the relative populations and proximity of the suburban and central city, and, most importantly, the independence of the suburban community. *Faye and Richard Tuck*, 3 FCC Rcd 5374, 5377-78 (1988). In this case, from the proposed transmitter site, KACI-FM will place a 70 dBu contour over a majority of the Portland Urbanized Area. Tualatin is located 16 kilometers away from Portland. The 2000 Census population of Tualatin (22,791) is 4.3% of the population of Portland (529,121). These figures are similar or superior to those of other suburban communities granted a first local preference. *See, e.g., Ada, Newcastle and Watonga, Oklahoma*, 11 FCC Rcd 16896, 16899 (1996); *D'Iberville and Wiggins, Mississippi*, 10 FCC Rcd 1079 (1995). In any event, the Commission has repeatedly stated that these factors are less important than evidence of a community's independence. *See Headland, Alabama and Chattahoochee, Florida*, 10 FCC Rcd

10352 (1995). The following analysis of the eight *Tuck* factors demonstrates the independence of Tualatin from Portland.

(1) *Extent to which the residents of Tualatin, Oregon, work in the City of Portland*~~*Tualatin*~~. The population of Tualatin was 22,791 in 2000 (2000 U.S. Census Bureau). According to 2000 Census figures, 3,151 of the 12,419 employed individuals in Tualatin, or 25.4% work in their place of residence. See Exhibit 1. This compares favorably with other independent communities. See, e.g., *Albemarle and Indian Trail, North Carolina*, 16 FCC Rcd 13876 (2001); *Coolidge and Gilbert, Arizona*, 11 FCC Rcd 3610 (1996).

(2) *Newspapers and other media that cover Tualatin needs and interests*. Tualatin is served by a weekly newspaper, the *Tualatin Times*. Local businesses advertise in the newspaper, which contains news and information of special interest to the residents of Tualatin. See Exhibit 2. The City of Tualatin maintains its own web page at www.ci.tualatin.or.us. By accessing this web page, city residents may access a wide variety of facts and events concerning Tualatin, including information regarding city officials, public services, public and committee meetings, city development, job opportunities, public schools and community events. Sample pages are attached. See Exhibit 3. Additionally, the City of Tualatin produces a monthly newsletter which is sent out to each household in the City of Tualatin and is also available on the web. See Exhibit 4. Therefore, the residents of Tualatin do not need to rely on the media in Portland.

(3) *Community leaders and residents perceive Tualatin as being separate from Portland*. The City of Tualatin has its own unique identity and history that are separate

from that of Portland. In 1853, Samuel Galbreath began a ferry service crossing the Tualatin River from a village he called “Galbreath.” That town’s name was changed to “Bridgeport” when Galbreath built the first bridge across the Tualatin River in 1856. Bridgeport thrived by attracting business from Portland throughout the Willamette Valley. In 1886, the Portland & Willamette Railway Company purchased the right-of-way through John Sweek’s land on the Tualatin River’s west bank opposite Bridgeport. Profiting from the sale, Sweek took advantage of the railroad’s location and platted a town around the depot—he called the town “Tualatin.” Tualatin expanded rapidly. Ben Cummins, shopkeeper, was the first to set up business in the new town. He purchased land across from the depot, building a large home for his family, a two story store and post office. Soon a livery, stable, hotel and two saloons were added to the community. In 1890, the Tualatin Mill Company established a sawmill close to the river, which provided impetus for Tualatin’s growth. As Tualatin’s population grew, attracted by the town’s reputation for offering work, shrewd investors platted subdivisions. In 1906, the Oregon Electric Railroad Portland-Salem Line came to town and changed the city’s center again. By 1910, businesses boomed, the school expanded to offer a four-year high school curriculum and the first automobiles arrived in town. The City of Tualatin was incorporated in 1913 at which time an official government was formed. *See* Exhibit 6.

The existence of elected government officials, local civic organizations and civic activities are also probative of a perception that Tualatin is, in fact, separate from Portland. *See* *Detroit Lakes and Barnesville, Minnesota*, 16 FCC Rcd at 22583.

(4) *Tualatin has its own local government and elected officials.* The government of the City of Tualatin functions independently of any other governmental

units, and operates under a Council-Manager form of government. The City charter gives responsibility for the day-to-day operations to the City Manager. The concept underlying the Council-Manager plan is that the Council sets policy and the City Manager carries it out. The Council is composed of a Mayor and six Councilors elected from the City at large, each serving a four-year term. Among the City departments are Community Development, Community Services (including Library, Parks, Greenways and Natural Areas, Senior Services, Arts and Recreational Opportunities), Engineering & Building, Finance, Legal Services, Operations and Police. The City also provides municipal services, such as water and sewer service, to its residents. *See Exhibit 6.*

(5) The City of ~~South Jordan~~ Tualatin has its own zip code and phone book.

The zip code designated exclusively for the City of Tualatin is 97062. The U.S. Postal Service operates the Tualatin Post Office at 18850 SW Teton Avenue in Tualatin.

Residential and business listings for Tualatin are found in the Tigard-Tualatin Telephone Directory published by Quest. *See Exhibit 7.*

(6) The City of Tualatin has its own commercial establishments and health facilities. Tualatin is home to the Tualatin Chamber of Commerce and a variety of business and commercial establishments. A few of these businesses identify with the community by using "Tualatin" in their name, for example, Tualatin Coffee and Wine, Tualatin Liquor Store, Tualatin Island Grill, Tualatin Auto Care, Tualatin Auto Repair, Tualatin Transmission Center, Tualatin Drycleaners, Tualatin Pediatrics and Tualatin Indoor Soccer. Other Tualatin's retail businesses include Affordable Glass & Window, Pro Shop, Warne Manufacturing Co., J C Motors, Schuck's Auto Supply, Lexus-Elite Automotives, Salon Pacific, Head to Toes Beauty, Pacific Foods of Oregon and Plaid

Pantry Markets. Tualatin has numerous dining establishments such as Cheer Me Up Coffee, Three Lions Bakery Café, Stafford House, Wong's Chinese Restaurant, Samurai Sam's Teriyaki Grill, Thai Bistro and the Sweetbrier Inn. Banking services are provided by numerous establishments such as the Bank of the West, Sterling Savings Bank, Key Bank and Umpqua Bank. *See Exhibit 8.*

A number of health care providers are located in the City of Tualatin. Medical services are provided by and at the Legacy Meridian Park Hospital, the Yellow Cross Acls, the Andaluz Waterbirth Center, Greenough Psychological Services, the Tualatin Chiropractic Clinic, Tualatin Physical Therapy, the Tualatin Imaging Center, Linda Rider Hypnotherapy and Tualatin Pediatrics. Dental care is provided by Tualatin Family Dental Clinic as well as by various other local dentists such as All Smiles Tualatin Dental and Tualatin Dental Care. Veterinary services may be obtained from the Tualatin Animal Clinic. *See Exhibit 9.*

Tualatin is also home to a number of religious organizations such as the Tualatin Fellowship Church, the Tualatin Presbyterian Church, the Tualatin United Methodist Church, Christ Community Church and several Churches of Jesus Christ of Latter-Day Saints. *See Exhibit 10.* There are many civic organizations and committees in Tualatin such as Kiwanis Club, Lions Club, Rotary Club, VFW, Winona Grange #271, Tualatin Area Newcomers Club, Tualatin Historical Society, various neighborhood associations, the Tualatin Arts Advisory Committee, the Tualatin Library Advisory Committee, the Tualatin Parks Advisory Committee, the Tualatin Planning Advisory Committee, the Tualatin Urban Renewal Advisory Committee and the Tualatin Youth Advisory Council. Community activities and events that occur in the City of Tualatin include Artsplash,

Concerts ~~and on~~ the Commons and the Tualatin Crawfish Festival (sponsored by the Tualatin Chamber of Commerce). *See* Exhibit 11.

(7) Tualatin is a separate and distinct advertising market from Portland.

Businesses in Tualatin may advertise in the *Tualatin Times*, which enables them to reach the residents of Tualatin without going through a Portland media source. Residents may also access the City webpage or read the City ~~Newsletter~~ newsletter to learn about community events and news and employment opportunities. Thus, the residents of Tualatin do not need to seek out Portland media sources in order to find out what is happening in their community nor do they need to rely on the Portland advertising market.

(8) The City of Tualatin has its own schools and library and its police protection is provided independent of any other jurisdiction. Tualatin operates the City of Tualatin Public Library, which serves the local population. The library is located in the City Hall building at the corner of Boones Ferry Road and Martinazzi Avenue and is open seven days a week. The library also maintains a book discussion group. *See* Exhibit 12. The majority of the City of Tualatin is within the Tigard-Tualatin School District. Tualatin students attend Bridgeport, Byrom or Tualatin Elementary School, then go on to Hazelbrook Middle School and Tualatin High School (the Class of 1998 had the largest number of National Merit Scholars of any high school in Oregon). All of these schools are located in Tualatin as is the Center Montessori School. *See* Exhibit 13.

The City of Tualatin maintains its own police force. According to the Tualatin Police Department website, the Department is composed of 34 sworn officers and an additional 7 member professional support staff plus community volunteers. Fire

protection is provided by the Tualatin Valley Fire & Rescue, which is a regional agency serving Tualatin. *See* Exhibit 14.

The City of Tualatin has a full range of parks and recreations services that are available to its residents. Within the city park system are softball and soccer fields, tennis and basketball courts, a skate park and natural trails and playground areas. The City opened its eleventh park, Jurgen's Park, in September 2001 and in October 2002, opened new basketball and tennis courts. Specially designed environments and programs support the interest of young children and adolescents. In addition, the Community Service Department also oversees the Durham Senior ~~City~~Center. *See* Exhibit 15.

6. The City of Tualatin is currently independent of Portland and deserves its first local service. As demonstrated herein, Tualatin satisfies all of the independent indicia required by *Tuck*.

B. STATION KNRQ-FM, CHANNEL 250C, EUGENE, OREGON

7. In order to allot Channel 250C2 to Tualatin, Channel 250C must be deleted at Eugene, Oregon. The Joint Petitioners propose to substitute Channel 300C for Channel 250C and modify the license of KNRQ-FM, Eugene, Oregon, accordingly. Channel 300C can be allotted at Eugene at the existing site of KNRQ-FM in compliance with the Commission's spacing rules provided Channel 279C is substituted for Channel 300C at Albany, Oregon and a channel substitution is made at the Diamond Lake, Oregon allotment as discussed below. *See* Figure 5. An order to show cause to Cumulus Licensing Corp., the licensee, will be necessary. PB hereby restates that it will reimburse the licensee for its expenses in making the channel change should the Commission grant this Petition.

C. VACANT CHANNEL, CHANNEL 299A, DIAMOND LAKE, OREGON

8. In order to allot Channel 300C at Eugene, Oregon, Channel 251A must be substituted for Channel 299A at Diamond Lake, Oregon. Channel 251A can be allotted consistent with the Commission's spacing rules (Channel 291A is also available as a substitution for Channel 299A). *See* Figure 13(a).

D. STATION KHPE, CHANNEL 300C, ALBANY, OREGON

9. In order to allot Channel 300C to Eugene, Oregon, Channel 300C must be deleted at Albany, Oregon. The Joint Petitioners proposes to substitute Channel 279C for Channel 300C at Albany and modify the license of Station KHPE and change the reference coordinates for that station. From that site, KHPE will be in compliance with Section 73.207 of the Commission's rules. *See* Figure 6. A 70 dBu signal can be provided to Albany from the proposed reference site. *See* Figure 7.

E. STATION KXPC-FM, CHANNEL 279C, LEBANON TO PAISLEY, OREGON

1. Technical Analysis

10. In order to allot Channel 279C to Albany, Channel 279C must be deleted at Lebanon, Oregon. PB, one of the Joint Petitioners, proposes to allot Channel 279C at Paisley, Oregon, for use by KXPC-FM and modify the license of KXPC-FM accordingly. Channel 279C can be allotted to KXPC-FM consistent with Section 73.207 of the Commission's rules. *See* Figure 9. A 70 dBu signal can be provided to Paisley from the proposed referenced point. *See* Figure 10.

11. The relocation of KXPC-FM to Paisley will not result in any increase or decrease in area but will result in a net decrease in population of 1,091,929 persons able to receive a 60 dBu signal from the station. *See* Figure 11. The loss area will continue to be well served by more than five aural services. *See* Figure 12. However, the relocation of KXPC-FM to Paisley

will result in the provision of a first local aural service (white area) to 2,287 people. See Figure 13.

2. Change in Community of License

12. The proposed change in community of license of KXPC-FM from Lebanon to Paisley satisfies the prerequisites set forth in *Community of License, supra*. First, the proposed use of Channel 279C at Paisley is mutually exclusive with the current use of Channel 279C at Lebanon. See Figure 9. Second, Lebanon will not be deprived of local service since three stations (KGRI, KSHO and KGAL) will continue to serve that community. Third, the Paisley proposal is greatly preferred under the Commission's priorities. The comparison results in a first local service at Paisley (2000 pop. 247) (priority 3) versus a ~~forth~~fourth local service at Lebanon (2000 pop. 12,950) (priority 4). See *Revision of FM Assignment Policies and Procedures, supra*. Moreover, the relocation of KXPC-FM to Paisley will result in the provision of a first local service to over 2,200 people that currently lack any primary aural service (priority 1) *id*.

13. Paisley is not located within any Urbanized Area, nor will the 70 dBu contour of KXPC-FM cover any part of any Urbanized Area. Paisley easily qualifies as a community for FCC allotment purposes. Paisley is a rural community located in Lake County situated on the Cheawucan River. It is listed in the U.S. Census 2000 with a population of 247. The U.S. Post Office associates ZIP code 97636 with Paisley.

14. The City of Paisley has its own unique identity and history. In 1873 a Post Office was established there. An early Scot settler has been credited with naming the town of Paisley after the city in Scotland. The local economy is mainly based on cattle ranching, the U.S. Forest Service and recreation. The ZX Ranch, headquartered here, is the largest in the state. Located on the edge of the Great Basin with the high desert to the east and the ~~Freemont~~Fremont

National Forest to west, Paisley is the hub of an excellent outdoor vacation land. *See Exhibit 16.*

15. Businesses located in Paisley include the Paisley Mercantile, the Old School Bed and Breakfast, the Pioneer Saloon, the Homestead, the Miles Motel, Artistry in Wood and Custom Scrimshaw. *See Exhibit 16.*

16. Paisley maintains a K-12 year school that includes a dormitory to house students from outside the school district. Paisley also has its own Fire Department and Disaster Unit, library and Family Center. Paisley is home to three churches: Lake County United Methodist Church, St. John the Apostle Catholic Church and Assembly of God. Among the events held each year in Paisley is the Mosquito Festival in July. *See Exhibit 16.*

F. STATION ~~KSMW~~KMSW(FM), CHANNEL 224C3, THE DALLES, OREGON

17. Joint Petitioner, MSW, wishes to upgrade ~~KSMW~~KMSW to Channel 272C2. That upgrade is permissible within the confines of this rule making proposal. Channel 272C2 can be allotted to The Dalles at ~~KSMW's~~KMSW's current transmitter site consistent with Section 73.207 of the Commission's Rules, provided that Channel 300C2 is substituted for Channel 2792C2 at Goldendale, Washington as discussed below. *See Figure 14.*

G. STATION KYYT, CHANNEL 272C2, GOLDENDALE, WASHINGTON

18. In order to allot Channel 272C2 to The Dalles, Oregon, Channel 300C2 must be substituted for Channel 272C2 at Goldendale, Washington for use by Station KYYT. The Joint Petitioners propose to substitute Channel 300C2 for Channel 272C2 at Goldendale, Washington, and modify the license of KYYT accordingly. Channel 300C3 can be allotted to Goldendale at KYYT's current transmitter site consistent with Section 73.207 of the Commission's Rules if

Channel 279C is substituted for Channel 300C at Albany, Oregon. See Figure 16. An order to show cause to Haystack Broadcasting, Inc., the licensee, will be required. PB hereby restates that it will reimburse the licensee for its expenses in making the channel change should the Commission grant this Petition.

III. CONCLUSION

Grant of the Petition is in the public interest because Tualatin and Paisley, Oregon will each receive a first local service and over 2,200 people will receive a first local aural broadcast service. The Joint Petitioners are confident that the changes can be implemented smoothly and rapidly. Accordingly, the Commission should grant this Petition for Rule Making.

Respectfully submitted,

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Dated: March 21, 2005

ENGINEERING STATEMENT

In Support of a
Petition for Rule Making
KXPC-FM Ch 279C Lebanon, OR
KACI-FM Ch 249C2 The Dalles, OR
KMSW (FM) Ch 224C3 The Dalles, OR
The Joint Parties

INTRODUCTION

This engineering statement is prepared in support of a petition for rule making filed by Portland Broadcasting, LLC ("PBL") licensee of ~~KPX~~KXPC-FM Lebanon, OR; Columbia Gorge Broadcasters, Inc., ("Columbia") licensee of KACI-FM channel 249C2, The Dalles, OR; and MSW, LLC ("MSW"), licensee of KMSW (FM) channel 224C3, The Dalles, OR. In the instant statement these parties will be referred to as the Joint Parties. The Parties submit that the public interest will be served by a modification to the FM Table of Allotments by implementing the following scenario whereby KACI changes community of license from The Dalles on channel 249C2 to ~~New Community~~ Tualatin, OR on the mutually exclusive ("MX") channel of 250C2. As a result of a sub change to create clear spacing for channel 250C2 at Tualatin, KYYT can move from channel 272C2 to channel 30002 at its current site via an order to show cause. This in turn allows channel 272C2 to be substituted for channel 224C3 at the KMSW licensed site, and the license of KMSW modified accordingly. Although this is a non adjacent channel (MX) upgrade, it is permissible since it can only exist within the context of the instant petition. The petition also includes a deletion of channel 279C at Lebanon, OR that is used by KXPC-FM and its subsequent MX allotment to Paisley, OR as that community's first local service. This allotment provides coverage to a white area of 2,200 persons that presently do not have a primary aural service.

METHODS

A summary of all communities and their related channels (present and proposed) is included in Table 1 for reference.

All proposed spectrum modifications are first depicted by a detailed channel or allocations study that shows the spacing to all known pertinent FM facilities, licenses, approved, pending requests and proposed additions (deletions). If a site change is proposed, a 70 dBu contour map is included to verify compliance with §73.315 (city grade to 100% of the proposed community of license). In addition, a gain/loss map depicts the population and land area that is gained or lost. Finally, in modifications where a change in the community of license is proposed there is also a remaining services study depicting that no white area is created and that all areas continue to have a minimum of three remaining services. The vast majority of all loss areas have five or more remaining services.

The engineering statement is concluded with a cumulative gain/loss study giving the net gain of The Joint Parties' petition.

JOINT PARTIES' PETITION MODIFICATIONS EXPLAINED

The Joint Parties propose to delete channel 249C2 at The Dalles and allot MX channel 250C2 at Tualatin, OR for use by KACI. As a result of a sub-change required for ~~channel-Channel~~ 250C2 to create clear spacing at Tualatin, ~~channel-Channel~~ 30002-300C2 can be substituted for ~~channel-Channel~~ 272C2 at the KYYT licensed site. The Joint Parties propose to make the substitution of channel 30002 for channel 272C2 then use this channel as an upgrade for KMSW (from channel 2240 to channel 272C2) at the KMSW licensed site. The following discussion describes each proposed modification in sequential order.

The allotment of channel 250C2 at Tualatin, OR, channel 272C2 at The Dalles, OR and channel 279C at Paisley, OR requires the following modifications:

- 1). KACI-FM - Proposed channel 250C2 Tualatin, OR (Current CH 249C2, The Dalles, OR) The modification of KACI to operate on channel 250C2 at Tualatin, OR creates a short space to only channel 250C that is currently used by KNRQ(FM) Eugene, OR. Channel 251 C3 is in the database for Brightwood, OR. In a previous proceeding channel 251 C3 at Brightwood was denied and a MX allotment was granted. Even though the Commission's decision was appealed, The Joint Parties are submitting the instant petition under the *Auburn, AL* precedence. The allotment of channel 250C2 at Tualatin requires the following changes and sub changes:

- A). KNRQ - Proposed channel 3000 Eugene, OR (Current CH 250C Eugene, OR) - Currently KNRQ operates on channel 250C licensed to Eugene, OR. The allotment of channel 250C2 at Tualatin has spacing to KNRQ of 168.51 kilometers while 249 kilometers are required for channel 250C2 and channel 250C to be fully spaced. This creates a prohibited short space of 80.49 kilometers. The Joint Parties propose to eliminate this short space by substituting channel 3000 at the licensed site of KNRQ. The following sub changes are required to make this substitution.

- 1). KHPE - Proposed channel 279C Albany, OR (Current CH 3000 Albany, OR) - Currently KHPE operates on channel 3000. The distance between the licensed sites of KHPE and KNRQ is 72.62 kilometers while 290 kilometers is required to be fully spaced. This creates a prohibited short space of 217.38 kilometers. The Joint Parties propose to eliminate this short spacing by substituting channel 279C for channel 3000 at Albany for use by KHPE. This substitution will require a

slight reference coordinated modification of 720 meters to avoid short spacing to KFIS channel 281C2 Scappoose, OR. Sites closer to the current licensed site are available, but the instant allotment reference was chosen for clear spacing and complete line of site to Albany.

The substitution of channel 279C for channel 3000 at Albany is the required modification to substitute channel 30002 for channel 272C2 at KYYT Goldendale. This is described in complete detail in Section 11 of the instant petition.

Using channel 279C for channel 3000 at Albany requires the following sub change:

- a) KPXCKXPC-FM - Proposed channel 279C Paisley, OR (Current CH 279C Lebanon, OR) - Currently KPXC-FM operates on channel 279C licensed to Lebanon, OR. The distance between the reference site of KHPE and the operation site of KXPC-FM is 63.11 kilometers while 290 kilometers are required to be fully spaced. This creates a prohibited short space of 226.89 kilometers. The Joint Parties propose to eliminate this short space by deleting channel 279C at Lebanon and allotting it to Paisley, OR as that community's first local service. The distance between the allotment reference of channel 279C at Albany and channel 279C at Paisley is 311.67 kilometers. This is more than adequate distance to eliminating any short spacing. It should be noted however the allotment reference for Paisley is 31.20 kilometers short spaced to the operating (Form 302) site of KXPC-FM at Lebanon. Therefore, the proposed allotment is MX with the existing facility. There are no additional sub changes required to delete channel 279C

at Lebanon and allocate channel 279C at Paisley for use by KXPC-FM. In addition, there are

no additional spectrum changes or sub changes required for the substitution of channel 279C for channel 3000 at Albany.

The deletion of channel 279C at Lebanon and its subsequent allotment to Paisley is also required for the upgrade of KMSW. This is described in complete detail in Section II of the instant petition.

- 2). VAC 299A - Proposed substitution of channel 251A Diamond Lake, OR (Current CH 299A Diamond Lake, OR)- Currently unused channel 299A is allotted to Diamond Lake. The distance between the proposed use of channel 3000 at the licensed site of KNRQ and the allotment reference of channel 299A is 120.75 kilometers while 165.0 kilometers are required to be fully spaced. Therefore, substitution of channel 3000 for channel 250C at Eugene creates a prohibited short space of 44.25 kilometers. The Joint Parties propose to eliminate this short space by substituting channel 251A for channel 299A at the current 299A allotment reference. Channel 251A can only be used as a substitute for channel 299A when channel 3000 is substituted for channel 250C at Eugene. Channel 291A is also available as a substitute for channel 299A at Diamond Lake.

- II). KSMW-KMSW - Proposed channel 272C2 The Dalles, OR (Current CH 224C3 The Dalles, OR) Extensive channel studies were made to determine a method of upgrading KMSW from a class C3 to a class C2. Its current channel and all others were considered. Inside the instant petition is the only method found for creating a substitute

channel whereby KMSW can move from a classC3 to classC2. To allot channel 272C2 at The Dalles requires one change and two sub changes;

- A). KYYT - Proposed 30002 Goldendale, WA (Currently channel 272C2 Goldendale, WA). The distance between the licensed site of KMSW and KYYT is 28.59 kilometers where 190 kilometers are required to be fully spaced. This creates a prohibited short space of 161.41 kilometers. The Joint Parties propose to eliminate this short space by substituting channel 30002 for channel 272C2 at the KYYT licensed site. Channel 30002 can only be used as a substitute for channel 272C2 at the KYYT licensed site after channel 3000 is deleted at KHPE Lebanon and substituted for channel 250C at KNRQ Eugene. It should be noted that the spacing between channel 30002 at KYYT and channel 3000 at KNRQ Eugene is 255.40 kilometers while 249 kilometers are required. This means the two allotments on channel 300 clear by 6.40 kilometers.

- 1). KHPE - Proposed 279C Albany, OR (Currently channel 3000 Albany, OR)

The distance between the licensed sites of KHPE Channel 3000 and KYYT channel 30002 is 218.42 kilometers while 249 kilometers are required to be fully spaced. This creates a short space of 30.58 kilometers. The Joint Parties propose to eliminate this prohibited short spacing by substituting channel 279C for channel 3000 with a modified reference site at Albany. The required deletion of channel 279C at Lebanon and the subsequent allotment of channel 279C at Paisley are the same in the KMSW upgrade as it is in the community of license

change for KACI-FM. Therefore, no additional discussion of KXPC-FM is required.

This concludes the discussion of the spectrum modification scenario submitted by The Joint Parties that creates a new first local service to Tualatin, OR and Paisley, OR and a new

licensed primary aural service to 2,287 persons (white area). The engineering exhibits that document the spectrum modification scenario discussed previously is discussed next.

EXHIBITS EXPLAINED

KACI

Exhibit E, Figure 1 is an allotment study for the allocation of channel 250C2 at Tualatin, OR. The study demonstrates that the proposed allotment is MX with the licensed site of KACI and that it meets all additional spacing once channel 3000 is substituted for channel 250C at Eugene. Figure 2 is a 70 dBu contour map for a maximum class C2. It depicts that the allotment is in compliance with §73.315 concerning city grade service to the entire community. Figure 3 is a gain/loss area map with population counts from the US Census Bureau 2000 census. Figure 4 is a remaining services map depicting that no white area is created by the instant petition's deletion of channel 249C2 at The Dalles.

KNRQ

Exhibit E, Figure 5 is an allocations study depicting that channel 3000 can be substituted for channel 250C at the licensed site of KNRQ and meet all required spacing separations once channel 3000 at KHPE Albany is substituted with channel 279C and channel 299A is substituted with channel 251A (or channel 291 A) at the channel 299A allotment reference at

Diamond Lake. No additional supporting exhibits are needed for KNRQ since the coverage will remain the same.

KHPE

Exhibit E, Figure 6 is an allocations study depicting spacing for the substitution of channel 279C for channel 3000 at Albany and used by KHPE. Since there is a slight change in the allotment reference and the KHPE licensed site, Figure 7 is a 70 dBu contour map provided to demonstrate compliance with §73.315. In addition, Figure 8 is a gain/loss area map. No remaining services map is included since no change in community of license is proposed for KHPE.

KXPC

Exhibit E, Figure 9 is an allocations study depicting separations to all known FM facilities related to the deletion of channel 279C at Lebanon and its subsequent allotment to Paisley. Figure 10 is 70 dBu contour map depicting compliance with §73.315 in the 100% coverage of Paisley. Figure 11 is a gain/loss area study. Figure 12 is remaining services study demonstrating that the channel 279C deletion at Lebanon has a minimum of three remaining services in all areas. Figure 13 is a 60 dBu contour map using the proposed allotment of channel 279C at Paisley as reference. It depicts a new licensed service to 20,966 kilometers of white area and to 2, 287 persons.

KMSW

Exhibit E, Figure 14 is an allocations study for the allotment of channel 272C2 for channel 224C3 at the KMSW licensed site. It depicts clear spacing for channel 272C2 for KMSW once channel 30002 is substituted for channel 272C2 at the licensed site of KYYT. No 70 dBu contour map is provided since the KMSW licensed site is used as reference and The Dalles is

currently served by the class C3 contour. Figure 15 is a gain/loss area depicting the class C2 gain area versus the present class C3 service area.

KYYT

Exhibit E, Figure 16 is an allocations study depicting separations to all known FM facilities as they relate to the substitution of channel 30002 for channel 272C2 at the licensed site of KYYT. It depicts clear spacing for the allotment of channel 30002 after channel 279C is substituted at Albany. No additional supporting exhibits are required since the substitution is made at the licensed site and class currently used by KYYT.

GAIN/LOSS STUDY

Exhibit E, Figure 17 is a compilation of the gain/loss studies in both population and land area. It depicts that The Joint Parties petition provides a new first local service to 23,038 persons (combination of Tualatin - 22,791 persons and Paisley - 247 persons), a new primary service to 941,059 while providing a first aural service to 2,287 persons (white area). There is a net area gain of 14,557 kilometers.

CONCLUSION

The instant engineering study provides documentation that The Joint Parties' petition provides a superior method for the maximum utilization of the spectrum while meeting all of the current Commission rules concerning FM spectrum modifications. The petition does not create any white area or down-grades and can be ~~implements~~ implemented with a minimum of spectrum interruption.

**Before The
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
Amendment of Section 73.202(b))	MB Docket No. _____
Table of Allotments)	RM - _____
FM Broadcast Station)	
(The Dalles, Tualatin, Eugene, Albany,)	
Lebanon, Paisley, Diamond Lake, Oregon)	
and Goldendale, Washington))	
To: Chief, Audio Division		
Media Bureau		

PETITION FOR RULE MAKING

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March 21, 2005

SUMMARY

The Joint Petitioners propose to (i) delete Channel 249C2 at The Dalles, Oregon, allot Channel 250C2 to Tualatin, Oregon as that community's first local service, and modify the license of KACI-FM to reflect operation on Channel 250C2 at Tualatin; (ii) change the community of license of Station KXPC-FM from Lebanon to Paisley, Oregon, (iii) substitute Channel 272C2 for Channel 224C3 at The Dalles and modify the license of KMSW to reflect operation on Channel 272C2; and (iv) substitute Channel 279C for 300C at Albany, Oregon and modify the license of KHPE to reflect operation on Channel 279C. To reflect these changes, further changes will be necessary at Eugene, and Diamond Lake, Oregon and Goldendale, Washington as described herein.

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**Before The
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
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Amendment of Section 73.202(b))	MB Docket No. _____
Table of Allotments)	RM - _____
FM Broadcast Station)	
(The Dalles, Tualatin, Eugene, Albany,)	
Lebanon, Paisley, Diamond Lake, Oregon)	
and Goldendale, Washington))	
To: Chief, Audio Division		
Media Bureau		

PETITION FOR RULE MAKING

Portland Broadcasting, LLC ("PB"), licensee of Station KXPC-FM, Lebanon, Oregon, Columbia Gorge Broadcasters, Inc. ("Columbia"), licensee of Station KACI-FM, The Dalles, Oregon, M.S.W. Communications, LLC ("MSW"), licensee of Station KMSW(FM), The Dalles, Oregon and Extra Mile Media, Inc. ("Extra Mile"), licensee of Station KHPE(FM), Albany, Oregon (together, the "Joint Petitioners"), by their respective counsel and pursuant to Section 1.401 of the Commission's rules, hereby request that the Commission amend the FM Table of Allotments to (i) delete Channel 249C2 at The Dalles, Oregon, allot Channel 250C2 to Tualatin, Oregon as that community's first local service, and modify the license of KACI-FM to reflect operation on Channel 250C2 at Tualatin; (ii) change the community of license of Station KXPC-FM from Lebanon to Paisley, Oregon, (iii) substitute Channel 272C2 for Channel 224C3 at The Dalles and modify the license of KMSW to reflect operation on Channel 272C2; and (iv) substitute Channel 279C for 300C at Albany, Oregon and modify the license of KHPE to reflect

operation on Channel 279C. To reflect these changes, further changes will be necessary at Eugene, and Diamond Lake, Oregon and Goldendale, Washington as described herein.

I. PRELIMINARY MATTERS

1. It will be necessary that the license of Station KNRQ-FM, Eugene, Oregon be modified to reflect the substitution of Channel 300C for Channel 250C at its licensed site. It will also be necessary that the license of Station KYYT(FM), Goldendale, Washington be modified to reflect the substitution of Channel 300C2 for Channel 272C2 at its licensed site. Orders to show cause to Cumulus Licensing Corp. and Haystack Broadcasting, Inc. will be necessary. PB hereby states that it will reimburse the licensees for their expenses in making the channel changes should the Commission grant this Petition for Rule Making. If the Petition is granted, PB will file an application to re-license KXPC-FM to Paisley, Oregon; Columbia will file an application to modify the license of KACI-FM to specify operation on Channel 250C2 at Tualatin, Oregon; MSW will file an application to modify the license of KMSW to specify operation on Channel 272C2 at The Dalles; and Extra Mile will file an application to modify the license of KHPE to specify operation on Channel 279C. Each of the Joint Petitioners will construct their facilities upon FCC approval of their application.

2. The following table summarizes the changes requested in this Petition:

City	Channel	
	Existing	Proposed
Eugene, Oregon	250C	300C
Albany, Oregon	300C	279C
Goldendale, Washington	272C2	300C2
Tualatin, Oregon	- - -	250C2
The Dalles, Oregon	224C3, 249C2	272C2
Diamond Lake, Oregon	299A	251A
Paisley, Oregon	- - -	279C
Lebanon, Oregon	279C	- - -

II. COMPLIANCE WITH THE COMMISSION'S RULES

A. STATION KACI-FM, CHANNEL 249C2, THE DALLES, OREGON

1. Technical Analysis

3. As demonstrated in the Engineering Statement, Channel 250C2 can be allotted to Tualatin, Oregon consistent with Section 73.207 of the Commission's rules. *See* Exhibit E, Figure 1. A 70 dBu signal can be provided to Tualatin from the proposed reference point. *See* Figure 2. The relocation of KACI-FM to Tualatin will result in a net gain in population of 1,872,331 persons within the 60 dBu signal from the station. *See* Figure 3. No white or gray area will be created. *See* Figure 4. This is consistent with other reallotments granted by the Commission. *See Detroit Lakes and Barnesville, Minnesota*, 16 FCC Rcd 22581 (2001); *Scappoose and Tillamook, Oregon*, 15 FCC Rcd 10899 (2000); *Earle, Arkansas, et al.*, 10 FCC Rcd 8270 (1995).

2. Change in Community of License

4. Columbia desires to change the community of license of Station KACI-FM, delete Channel 249C2 at The Dalles and allot Channel 250C2 at Tualatin under the guidelines set forth in *Amendment of the Commission Rules Regarding Modification of FM and TV Authorizations to Specify a New Community of License*, 4 FCC Rcd 4870 (1989), *recon. granted in part*, 5 FCC Rcd 7094 (1990) ("*Community of License*"). There, the Commission stated that in order to grant a change in community of license: (1) the proposed use of the channel must be mutually exclusive with its current use; (2) the existing community of license must retain local service; and (3) the proposed arrangement of allotment must be preferred over the existing arrangement under the Commission's allotment priorities. The proposed change in community of license of KACI-FM from The Dalles to Tualatin satisfies these prerequisites. First, the proposed use of

Channel 250C2 at Tualatin is mutually exclusive with the current use of Channel 249C2 at The Dalles. *See* Figure 1. Second, The Dalles will not be deprived of local service since several stations, including KACI, KODL, KMCQ and KMSW, will remain licensed to that community. Third, the Tualatin proposal is preferred under the Commission's priorities since Tualatin would receive a first local service (Priority 3), while retaining Channel 249C2 at The Dalles would only give that community a fifth local service (Priority 4). *See Revision of FM Assignment Policies and Procedures*, 90 FCC 2d 88 (1982).

5. Tualatin is located within the Portland, Oregon Urbanized Area. Therefore, this relocation implicates the Commission's policy concerning the potential migration of stations from underserved rural areas to well-served urban areas. *See Elizabeth City, North Carolina and Chesapeake, Virginia*, 9 FCC Rcd 3586 (1994). In making the determination whether to award an urbanized community a first local service preference, the Commission will consider the extent that station will provide service to the entire Urbanized Area, the relative populations and proximity of the suburban and central city, and, most importantly, the independence of the suburban community. *Faye and Richard Tuck*, 3 FCC Rcd 5374, 5377-78 (1988). In this case, from the proposed transmitter site, KACI-FM will place a 70 dBu contour over a majority of the Portland Urbanized Area. Tualatin is located 16 kilometers away from Portland. The 2000 Census population of Tualatin (22,791) is 4.3% of the population of Portland (529,121). These figures are similar or superior to those of other suburban communities granted a first local preference. *See, e.g., Ada, Newcastle and Watonga, Oklahoma*, 11 FCC Rcd 16896, 16899 (1996); *D'Iberville and Wiggins, Mississippi*, 10 FCC Rcd 1079 (1995). In any event, the Commission has repeatedly stated that these factors are less important than evidence of a community's independence. *See Headland, Alabama and Chattahoochee, Florida*, 10 FCC Rcd

10352 (1995). The following analysis of the eight *Tuck* factors demonstrates the independence of Tualatin from Portland.

(1) *Extent to which the residents of Tualatin, Oregon, work in the City of Tualatin.* The population of Tualatin was 22,791 in 2000 (2000 U.S. Census Bureau). According to 2000 Census figures, 3,151 of the 12,419 employed individuals in Tualatin, or 25.4% work in their place of residence. *See* Exhibit 1. This compares favorably with other independent communities. *See, e.g., Albemarle and Indian Trail, North Carolina*, 16 FCC Rcd 13876 (2001); *Coolidge and Gilbert, Arizona*, 11 FCC Rcd 3610 (1996).

(2) *Newspapers and other media that cover Tualatin needs and interests.* Tualatin is served by a weekly newspaper, the *Tualatin Times*. Local businesses advertise in the newspaper, which contains news and information of special interest to the residents of Tualatin. *See* Exhibit 2. The City of Tualatin maintains its own web page at www.ci.tualatin.or.us. By accessing this web page, city residents may access a wide variety of facts and events concerning Tualatin, including information regarding city officials, public services, public and committee meetings, city development, job opportunities, public schools and community events. Sample pages are attached. *See* Exhibit 3. Additionally, the City of Tualatin produces a monthly newsletter which is sent out to each household in the City of Tualatin and is also available on the web. *See* Exhibit 4. Therefore, the residents of Tualatin do not need to rely on the media in Portland.

(3) *Community leaders and residents perceive Tualatin as being separate from Portland.* The City of Tualatin has its own unique identity and history that are separate from that of Portland. In 1853, Samuel Galbreath began a ferry service crossing the

Tualatin River from a village he called “Galbreath.” That town’s name was changed to “Bridgeport” when Galbreath built the first bridge across the Tualatin River in 1856. Bridgeport thrived by attracting business from Portland throughout the Willamette Valley. In 1886, the Portland & Willamette Railway Company purchased the right-of-way through John Sweek’s land on the Tualatin River’s west bank opposite Bridgeport. Profiting from the sale, Sweek took advantage of the railroad’s location and platted a town around the depot—he called the town “Tualatin.” Tualatin expanded rapidly. Ben Cummins, shopkeeper, was the first to set up business in the new town. He purchased land across from the depot, building a large home for his family, a two story store and post office. Soon a livery, stable, hotel and two saloons were added to the community. In 1890, the Tualatin Mill Company established a sawmill close to the river, which provided impetus for Tualatin’s growth. As Tualatin’s population grew, attracted by the town’s reputation for offering work, shrewd investors platted subdivisions. In 1906, the Oregon Electric Railroad Portland-Salem Line came to town and changed the city’s center again. By 1910, businesses boomed, the school expanded to offer a four-year high school curriculum and the first automobiles arrived in town. The City of Tualatin was incorporated in 1913 at which time an official government was formed. *See Exhibit 6.*

The existence of elected government officials, local civic organizations and civic activities are also probative of a perception that Tualatin is, in fact, separate from Portland. *See Detroit Lakes and Barnesville, Minnesota*, 16 FCC Rcd at 22583.

(4) Tualatin has its own local government and elected officials. The government of the City of Tualatin functions independently of any other governmental units, and operates under a Council-Manager form of government. The City charter gives

responsibility for the day-to-day operations to the City Manager. The concept underlying the Council-Manager plan is that the Council sets policy and the City Manager carries it out. The Council is composed of a Mayor and six Councilors elected from the City at large, each serving a four-year term. Among the City departments are Community Development, Community Services (including Library, Parks, Greenways and Natural Areas, Senior Services, Arts and Recreational Opportunities), Engineering & Building, Finance, Legal Services, Operations and Police. The City also provides municipal services, such as water and sewer service, to its residents. *See Exhibit 6.*

(5) The City of Tualatin has its own zip code and phone book. The zip code designated exclusively for the City of Tualatin is 97062. The U.S. Postal Service operates the Tualatin Post Office at 18850 SW Teton Avenue in Tualatin. Residential and business listings for Tualatin are found in the Tigard-Tualatin Telephone Directory published by Quest. *See Exhibit 7.*

(6) The City of Tualatin has its own commercial establishments and health facilities. Tualatin is home to the Tualatin Chamber of Commerce and a variety of business and commercial establishments. A few of these businesses identify with the community by using “Tualatin” in their name, for example, Tualatin Coffee and Wine, Tualatin Liquor Store, Tualatin Island Grill, Tualatin Auto Care, Tualatin Auto Repair, Tualatin Transmission Center, Tualatin Drycleaners, Tualatin Pediatrics and Tualatin Indoor Soccer. Other Tualatin’s retail businesses include Affordable Glass & Window, Pro Shop, Warne Manufacturing Co., J C Motors, Schuck’s Auto Supply, Lexus-Elite Automotives, Salon Pacific, Head to Toes Beauty, Pacific Foods of Oregon and Plaid Pantry Markets. Tualatin has numerous dining establishments such as Cheer Me Up

Coffee, Three Lions Bakery Café, Stafford House, Wong's Chinese Restaurant, Samurai Sam's Teriyaki Grill, Thai Bistro and the Sweetbrier Inn. Banking services are provided by numerous establishments such as the Bank of the West, Sterling Savings Bank, Key Bank and Umpqua Bank. *See Exhibit 8.*

A number of health care providers are located in the City of Tualatin. Medical services are provided by and at the Legacy Meridian Park Hospital, the Yellow Cross Aels, the Andaluz Waterbirth Center, Greenough Psychological Services, the Tualatin Chiropractic Clinic, Tualatin Physical Therapy, the Tualatin Imaging Center, Linda Rider Hypnotherapy and Tualatin Pediatrics. Dental care is provided by Tualatin Family Dental Clinic as well as by various other local dentists such as All Smiles Tualatin Dental and Tualatin Dental Care. Veterinary services may be obtained from the Tualatin Animal Clinic. *See Exhibit 9.*

Tualatin is also home to a number of religious organizations such as the Tualatin Fellowship Church, the Tualatin Presbyterian Church, the Tualatin United Methodist Church, Christ Community Church and several Churches of Jesus Christ of Latter-Day Saints. *See Exhibit 10.* There are many civic organizations and committees in Tualatin such as Kiwanis Club, Lions Club, Rotary Club, VFW, Winona Grange #271, Tualatin Area Newcomers Club, Tualatin Historical Society, various neighborhood associations, the Tualatin Arts Advisory Committee, the Tualatin Library Advisory Committee, the Tualatin Parks Advisory Committee, the Tualatin Planning Advisory Committee, the Tualatin Urban Renewal Advisory Committee and the Tualatin Youth Advisory Council. Community activities and events that occur in the City of Tualatin include Artsplash,

Concerts on the Commons and the Tualatin Crawfish Festival (sponsored by the Tualatin Chamber of Commerce). *See* Exhibit 11.

(7) Tualatin is a separate and distinct advertising market from Portland.

Businesses in Tualatin may advertise in the *Tualatin Times*, which enables them to reach the residents of Tualatin without going through a Portland media source. Residents may also access the City webpage or read the City newsletter to learn about community events and news and employment opportunities. Thus, the residents of Tualatin do not need to seek out Portland media sources in order to find out what is happening in their community nor do they need to rely on the Portland advertising market.

(8) The City of Tualatin has its own schools and library and its police protection is provided independent of any other jurisdiction. Tualatin operates the City of Tualatin Public Library, which serves the local population. The library is located in the City Hall building at the corner of Boones Ferry Road and Martinazzi Avenue and is open seven days a week. The library also maintains a book discussion group. *See* Exhibit 12. The majority of the City of Tualatin is within the Tigard-Tualatin School District. Tualatin students attend Bridgeport, Byrom or Tualatin Elementary School, then go on to Hazelbrook Middle School and Tualatin High School (the Class of 1998 had the largest number of National Merit Scholars of any high school in Oregon). All of these schools are located in Tualatin as is the Center Montessori School. *See* Exhibit 13.

The City of Tualatin maintains its own police force. According to the Tualatin Police Department website, the Department is composed of 34 sworn officers and an additional 7 member professional support staff plus community volunteers. Fire

protection is provided by the Tualatin Valley Fire & Rescue, which is a regional agency serving Tualatin. *See* Exhibit 14.

The City of Tualatin has a full range of parks and recreations services that are available to its residents. Within the city park system are softball and soccer fields, tennis and basketball courts, a skate park and natural trails and playground areas. The City opened its eleventh park, Jurgen's Park, in September 2001 and in October 2002, opened new basketball and tennis courts. Specially designed environments and programs support the interest of young children and adolescents. In addition, the Community Service Department also oversees the Durham Senior Center. *See* Exhibit 15.

6. The City of Tualatin is currently independent of Portland and deserves its first local service. As demonstrated herein, Tualatin satisfies all of the independent indicia required by *Tuck*.

B. STATION KNRQ-FM, CHANNEL 250C, EUGENE, OREGON

7. In order to allot Channel 250C2 to Tualatin, Channel 250C must be deleted at Eugene, Oregon. The Joint Petitioners propose to substitute Channel 300C for Channel 250C and modify the license of KNRQ-FM, Eugene, Oregon, accordingly. Channel 300C can be allotted at Eugene at the existing site of KNRQ-FM in compliance with the Commission's spacing rules provided Channel 279C is substituted for Channel 300C at Albany, Oregon and a channel substitution is made at the Diamond Lake, Oregon allotment as discussed below. *See* Figure 5. An order to show cause to Cumulus Licensing Corp., the licensee, will be necessary. PB hereby restates that it will reimburse the licensee for its expenses in making the channel change should the Commission grant this Petition.

C. VACANT CHANNEL, CHANNEL 299A, DIAMOND LAKE, OREGON

8. In order to allot Channel 300C at Eugene, Oregon, Channel 251A must be substituted for Channel 299A at Diamond Lake, Oregon. Channel 251A can be allotted consistent with the Commission's spacing rules (Channel 291A is also available as a substitution for Channel 299A). *See* Figure 13(a).

D. STATION KHPE, CHANNEL 300C, ALBANY, OREGON

9. In order to allot Channel 300C to Eugene, Oregon, Channel 300C must be deleted at Albany, Oregon. The Joint Petitioners proposes to substitute Channel 279C for Channel 300C at Albany and modify the license of Station KHPE and change the reference coordinates for that station. From that site, KHPE will be in compliance with Section 73.207 of the Commission's rules. *See* Figure 6. A 70 dBu signal can be provided to Albany from the proposed reference site. *See* Figure 7.

E. STATION KXPC-FM, CHANNEL 279C, LEBANON TO PAISLEY, OREGON

1. Technical Analysis

10. In order to allot Channel 279C to Albany, Channel 279C must be deleted at Lebanon, Oregon. PB, one of the Joint Petitioners, proposes to allot Channel 279C at Paisley, Oregon, for use by KXPC-FM and modify the license of KXPC-FM accordingly. Channel 279C can be allotted to KXPC-FM consistent with Section 73.207 of the Commission's rules. *See* Figure 9. A 70 dBu signal can be provided to Paisley from the proposed referenced point. *See* Figure 10.

11. The relocation of KXPC-FM to Paisley will not result in any increase or decrease in area but will result in a net decrease in population of 1,091,929 persons able to receive a 60 dBu signal from the station. *See* Figure 11. The loss area will continue to be well served by more than five aural services. *See* Figure 12. However, the relocation of KXPC-FM to Paisley

will result in the provision of a first local aural service (white area) to 2,287 people. See Figure 13.

2. Change in Community of License

12. The proposed change in community of license of KXPC-FM from Lebanon to Paisley satisfies the prerequisites set forth in *Community of License, supra*. First, the proposed use of Channel 279C at Paisley is mutually exclusive with the current use of Channel 279C at Lebanon. See Figure 9. Second, Lebanon will not be deprived of local service since three stations (KGRI, KSHO and KGAL) will continue to serve that community. Third, the Paisley proposal is greatly preferred under the Commission's priorities. The comparison results in a first local service at Paisley (2000 pop. 247) (priority 3) versus a fourth local service at Lebanon (2000 pop. 12,950) (priority 4). See *Revision of FM Assignment Policies and Procedures, supra*. Moreover, the relocation of KXPC-FM to Paisley will result in the provision of a first local service to over 2,200 people that currently lack any primary aural service (priority 1) *id.*

13. Paisley is not located within any Urbanized Area, nor will the 70 dBu contour of KXPC-FM cover any part of any Urbanized Area. Paisley easily qualifies as a community for FCC allotment purposes. Paisley is a rural community located in Lake County situated on the Cheawucan River. It is listed in the U.S. Census 2000 with a population of 247. The U.S. Post Office associates ZIP code 97636 with Paisley.

14. The City of Paisley has its own unique identity and history. In 1873 a Post Office was established there. An early Scot settler has been credited with naming the town of Paisley after the city in Scotland. The local economy is mainly based on cattle ranching, the U.S. Forest Service and recreation. The ZX Ranch, headquartered here, is the largest in the state. Located

on the edge of the Great Basin with the high desert to the east and the Fremont National Forest to west, Paisley is the hub of an excellent outdoor vacation land. *See Exhibit 16.*

15. Businesses located in Paisley include the Paisley Mercantile, the Old School Bed and Breakfast, the Pioneer Saloon, the Homestead, the Miles Motel, Artistry in Wood and Custom Scrimshaw. *See Exhibit 16.*

16. Paisley maintains a K-12 year school that includes a dormitory to house students from outside the school district. Paisley also has its own Fire Department and Disaster Unit, library and Family Center. Paisley is home to three churches: Lake County United Methodist Church, St. John the Apostle Catholic Church and Assembly of God. Among the events held each year in Paisley is the Mosquito Festival in July. *See Exhibit 16.*

F. STATION KMSW(FM), CHANNEL 224C3, THE DALLES, OREGON

17. Joint Petitioner, MSW, wishes to upgrade KMSW to Channel 272C2. That upgrade is permissible within the confines of this rule making proposal. Channel 272C2 can be allotted to The Dalles at KMSW's current transmitter site consistent with Section 73.207 of the Commission's Rules, provided that Channel 300C2 is substituted for Channel 272C2 at Goldendale, Washington as discussed below. *See Figure 14.*

G. STATION KYYT, CHANNEL 272C2, GOLDENDALE, WASHINGTON

18. In order to allot Channel 272C2 to The Dalles, Oregon, Channel 300C2 must be substituted for Channel 272C2 at Goldendale, Washington for use by Station KYYT. The Joint Petitioners propose to substitute Channel 300C2 for Channel 272C2 at Goldendale, Washington, and modify the license of KYYT accordingly. Channel 300C3 can be allotted to Goldendale at KYYT's current transmitter site consistent with Section 73.207 of the Commission's Rules if Channel 279C is substituted for Channel 300C at Albany, Oregon. *See Figure 16.* An order to

show cause to Haystack Broadcasting, Inc., the licensee, will be required. PB hereby restates that it will reimburse the licensee for its expenses in making the channel change should the Commission grant this Petition.

III. CONCLUSION

Grant of the Petition is in the public interest because Tualatin and Paisley, Oregon will each receive a first local service and over 2,200 people will receive a first local aural broadcast service. The Joint Petitioners are confident that the changes can be implemented smoothly and rapidly. Accordingly, the Commission should grant this Petition for Rule Making.

Respectfully submitted,

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